

Remarks

Applicant has considered the Office Action mailed on February 22, 2006. Claims 21-40 are pending in the present patent application. Of the pending claims, the Examiner rejected claims 21-40. In response to the Office Action, Applicant amended claims 21, 30 and 34 to overcome the 35 USC §102(e) rejection. In particular, Applicant amended claims 21 and 34 to remove the phrase “one or both of” and canceled claim 32 and incorporated the subject matter therefrom into claim 30. In addition, Applicant amended claim 38 to overcome the Examiner’s objection and claims 23 and 33 to remove minor informalities. The amendments to claims 23, 33 and 38 are not narrowing and were not made for the purpose of addressing patentability issues. Accordingly, Applicant reserves all rights afforded under the Doctrine of Equivalents. No new matter has been added. Applicant requests further examination and reconsideration of the present patent application.

The Examiner objected to claim 38 because the phrase “the output apparatus” lacks antecedence. Applicant amended claim 38 to provide proper antecedent basis. Accordingly, Applicant requests that the Examiner reconsider and remove the objection to claim 38.

The Examiner rejected claims 21, 22, 30, 31 and 34-40 under 35 USC §102(e) as being anticipated by Levin et al. (US Patent No. 6,654,546). Applicant respectfully traverses the §102(e) rejection of the present patent application and submits that Levin et al. (hereinafter Levin) does not anticipate claims 21, 22, 30, 31 and 34-40.

As mentioned above, Applicant amended independent claims 21 and 34 to remove the phrase “one or both of”. Claims 21 and 34 now recite, *inter alia*, the limitation that the adjustment of quality is based on a change in the storage capacity in a storage device and a change to software that controls a rendering circuit.

Levin does not disclose making a change to software that controls a rendering circuit. Instead, Levin uses an access limiting process 114 to either limit

access to a given amount of storage capacity in a disk drive (col. 2, lines 20-22; and col. 2, lines 55-65) or limit storage capacity of certain types of information (e.g., high quality video, medium quality video and low quality video; see col. 3, line 56 through col. 4, line 8). Limiting access to a given amount of storage capacity in a disk drive and limiting storage capacity of certain types of information do not embody functionality that is analogous to making a change to software that controls a rendering circuit.

Since Levin is only limiting access to a given amount of storage capacity and limiting storage capacity of certain types of information and not making a change to software that controls a rendering circuit, Applicant submits that Levin does not anticipate independent claims 21 and 34. Claims 22 and 35-40 depend directly or indirectly from now presumably allowable claims 21 and 34, respectively, and thus are in allowable condition by dependency.

Applicant amended independent claim 30 with limitations further directed to the rendering circuit. As amended, claim 30 now recites a rendering circuit that renders content information and a controller that sets the specific quality of the rendering.

Levin does not disclose a rendering circuit and a controller that sets the specific quality of the rendering. Instead of using a rendering circuit and a controller that sets the specific quality of rendering, Levin uses an access limiting process 114. An access limiting process that either limits access to a given amount of storage capacity in a disk drive or limits storage capacity of certain types of information is not analogous to a rendering circuit and a controller that sets the specific quality of the rendering.

Applicant notes that the Examiner submitted in the second paragraph of page 7 in the Office Action that Levin incorporates by reference US Patent Application Serial No. 09/132,690 entitled "Digital Recording and Playback" and filed August 11, 1998. The Examiner believes that US Patent Application Serial No. 09/132,690 provides details with respect to the use of a rendering circuit in Levin. According to

Patent Application Information Retrieval (PAIR) provided by the US Patent Office, Patent Application Serial No. 09/132,690 is abandoned. Furthermore, PAIR does not contain a copy of Patent Application Serial No. 09/132,690, so Applicant cannot review the application for teachings of a rendering circuit. Applicant requests that the Examiner provide a copy of Patent Application Serial No. 09/132,690 so that Applicant can review it.

Even if Applicant is able to obtain a copy of Patent Application Serial No. 09/132,690, Applicant does not believe that this `application can be considered as prior art against the present patent application. In particular, since Patent Application Serial No. 09/132,690 is abandoned and not available as a public document, Applicant submits that Patent Application Serial No. 09/132,690 is not a printed publication that the Examiner can rely on in the rejection of the present patent application.

Since Levin does not disclose using a rendering circuit and a controller to set the quality of the rendering, Applicant submits that Levin does not anticipate independent claim 30. Claim 31 depends directly from now presumably allowable claims 30, and thus is in allowable condition by dependency.

In view of the above remarks, Applicant submits that Levin does not anticipate claims 21-22, 30-31 and 34-40. Accordingly, Applicant requests that the Examiner reconsider and remove the §102(e) rejection of claims 21-22, 30-31 and 34-40 under Levin.

The Examiner rejected claims 23-29, 32 and 33 under 35 USC §103(a) as being unpatentable over Levin in view of Nishio et al. (US Patent No. 6,345,388). Applicant respectfully traverses this §103(a) rejection and submits that claims 23-29, and 33 are patentable over the combination of Levin in view of Nishio et al. (hereinafter Nishio).

The Examiner added Nishio for its disclosure of limitations recited in depending claims such as using color depth and resolution to adjust quality, and controlling data format of content information. Nishio relates generally to

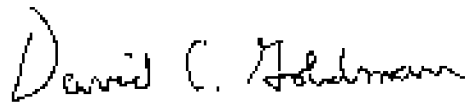
transmitting and receiving digital television signals and more particularly to using an accounting system to select a grade of received image quality.

Nishio provides no teachings, hints or motivations that suggest overcoming the above-noted deficiencies associated with Levin with respect to claims 21, 30 and 34. Accordingly, claims 21, 30 and 34 of the present patent application are patentably distinguishable over the combination of Levin in view of Nishio. Claims 23-29 and 33 depend from presumably allowable claims 21 and 30, and thus Applicant submits that these claims are allowable by dependency. Accordingly, Applicant requests that the Examiner reconsider and remove the §103(a) rejection of claims 23-29, and 33.

In view of the foregoing amendments and remarks, Applicant requests that the Examiner reconsider this application and allow claims 21-31 and 33-40.

If the Examiner has any questions regarding the present patent application, the Examiner can call Applicant's attorney, David C. Goldman, at telephone number (518)-449-0044.

Respectfully submitted,

A handwritten signature in black ink that reads "David C. Goldman". The signature is written in a cursive, flowing style.

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